

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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AUTOMATED TRANSACTIONS LLC,

Plaintiff,

-against-

ASTORIA FEDERAL SAVINGS AND
LOAN ASSOCIATION,

Defendant,

-against-

METAVANTE CORPORATION and
DIEBOLD, INC.,

Third Party Defendants.
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09 Civ. 9669 (SHS)

ORDER

SIDNEY H. STEIN, U.S. District Judge.

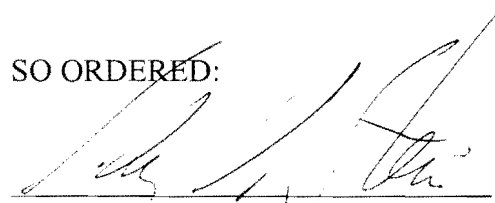
Plaintiff Automated Transactions LLC has moved (Dkt. No. 56) to dismiss defendant Astoria Federal Savings and Loan Association's second counterclaim and to strike Astoria's second, third, fourth, fifth, and eighth affirmative defenses. In Astoria's memorandum of law in opposition (Dkt. No. 61), it requested leave to amend its answer and counterclaims pursuant to Federal Rule of Civil Procedure 15(a)(2), informing the Court that "Plaintiff *does not* oppose [defendant's] amending of its answer and counterclaims." (Dkt. No. 61 at 1.) Defendant also attached its proposed amended answer and counterclaims as Exhibit A to its opposition memorandum, filed electronically as a series of 11 attachments to the memorandum. (See Dkt. Nos. 61-1 – 61-11.) Plaintiff then declined to submit a reply brief in support of its motion. Accordingly, the Court grants

defendant leave to file the proposed First Amended Answer and Counterclaims.

Defendant is directed to file its First Amended Answer and Counterclaims with the Clerk of Court on or before March 12, 2012. As a result, plaintiff's motion to dismiss (Dkt. No. 56) the counterclaim and strike affirmative defenses in the Answer is dismissed as moot.

Dated: New York, New York
March 7, 2011

SO ORDERED:



Sidney H. Stein, U.S.D.J.